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Chairman: Mr. Tulbure ..... (Moldova)

Contents

Agenda item 86: The rule of law at the national and international levels

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The meeting was called to order at 10.05 a.m.

Agenda item 86: The rule of law at the national and international levels (A/62/121 and Add.1 and A/62/261)

1. **Mr. Sheeran** (New Zealand), speaking on behalf of the CANZ group of countries (Canada, Australia and New Zealand), said that the rule of law at both the national and the international levels was essential to lasting peace and security, the realization of sustainable development and economic growth and the promotion of human rights, accountability and democracy, which were central concerns of the Charter of the United Nations. It was therefore the common responsibility of Member States to support the United Nations work to promote the rule of law.

2. The establishment of the Rule of Law Coordination and Resource Group and the Rule of Law Assistance Unit was welcome. While it was a challenge to harmonize the activities of the various players, the proposal to give priority to devising a single work plan for the rule of law, which would cover the whole of the United Nations system, would help to avoid duplication, promote synergy and coherence and maximize the impact of United Nations resources. The goal of developing common policies and strategies, in particular through the drawing up of a guidance note on the rule of law, and of intensifying cooperation between the United Nations and other relevant organizations and donors was likewise commendable. Consequently, the CANZ group of countries called upon the Secretary-General and Member States to provide the assistance and support required in order to ensure the Unit's sustainability. It would be useful for the Sixth Committee to receive a regular report from the Secretary-General on its progress.

3. In order to avoid the duplication of work being done on the rule of law in other United Nations forums, it would be advisable for the Sixth Committee to centre its discussions on one or two sub-topics with a practical and action-oriented focus. It would therefore be wise for the Committee to consider a sub-topic on strengthening international criminal justice at the international and national levels, especially in view of the "residual" or "legacy" issues which were arising as the international and hybrid criminal courts and tribunals completed their docket. As the topic of international criminal justice was broad-ranging, a more focused approach would ensure that a useful outcome was achieved. He welcomed the joint report of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda on the residual functions of ad hoc tribunals, which provided a good starting point for the consideration of those issues which also had implications for the Special Court for Sierra Leone and the Extraordinary Chambers in the Courts of Cambodia. Furthermore that work would be of relevance to the Special Tribunal for Lebanon. More attention should be devoted to the response of the United Nations with regard to the responsibilities that would continue after those judicial bodies were wound up; as one of the ad hoc tribunals might close in 2009, much of the good work done would be undermined if those matters were not addressed promptly.

4. Another sub-topic which would be worth examining was that of technical assistance and capacity-building, because the continual development and large volume of international law presented a real challenge for many developing countries. The Rule of Law Assistance Unit could play a key role in improving the delivery of technical assistance and capacity-building in fields such as the implementation of international treaties and other obligations and the drafting of legislation and model laws. That role would fit in with the Unit's proposed workplan and modest resources.

5. **Ms. Galvão Teles** (Portugal), speaking on behalf of the European Union; the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania, Bosnia and Herzegovina and Serbia; and, in addition, Armenia, Georgia, Iceland, Moldova and Ukraine, said that, as the European Union attached great importance to the strengthening of the rule of law by the United Nations, it supported the inclusion of that subject on the Sixth Committee's agenda at its current and forthcoming sessions.

6. Respect for the rule of law was the cornerstone of the peaceful coexistence of nations and an essential prerequisite in relations among States. At the international level, the core elements of the rule of law were encapsulated in the norms of international law. Securing conditions in which the rule of law could flourish had been one of the very purposes for which the United Nations had been founded.

7. The European Union was deeply committed to upholding and developing an international order based on international law, including human rights law, and the rule of law with the United Nations at its centre. It built its own international relations and its efforts to promote peace, security and prosperity worldwide on the principle of the rule of law, in the belief that adherence to that rule was crucial to conflict prevention, to post-conflict recovery and reconstruction and to sustainable long-term development.

8. The European Union had consistently supported initiatives at the United Nations to enhance the rule of law and it had therefore been pleased to note that the 2005 World Summit Outcome had emphasized the interrelationship between peace, security, development and human rights and had made the rule of law one of its central cross-cutting themes. Consequently it welcomed General Assembly resolution 61/39 and the inclusion of the topic of the rule of law at the national and international levels in the Sixth Committee's agenda.

9. Strengthening criminal justice at the national and international levels would be a suitable sub-topic for debate at the following General Assembly session, since it addressed both the national and international levels, was well-balanced and afforded the possibility of discussing issues such as technical assistance and capacity-building, with a view to strengthening national criminal justice systems and international mechanisms for judicial cooperation. It would also provide an opportunity to consider the work and legacy of the international criminal courts and tribunals, although care would have to be taken not to duplicate deliberations on those bodies under other items on the General Assembly's agenda.

10. The inventory which the Secretary-General had been requested to submit at the General Assembly's sixty-third session should cover the means of promoting the rule of law and the normative content of that promotion. The inventory was vitally needed in order to detect gaps in and overlapping of work on furthering the rule of law and to improve cooperation on the subject within the United Nations system. It would be sensible if preparation of that report were to take place in close collaboration with the newly established Rule of Law Assistance Unit. It would also be useful if the Secretariat were to produce a report focusing on the sub-topic which would be chosen for discussion the following year.

11. The European Union had warmly welcomed the proposals contained in the report of the Secretary-General entitled "Uniting our strengths: Enhancing United Nations support for the rule of law" (A/61/636-S/2006/980) because more could indeed be done to improve the impact of assistance to Member States in that area through better communication and closer collaboration among the various United Nations agencies, programmes and processes. She was therefore pleased to note the establishment of the Rule of Law Coordination and Resource Group for that purpose.

12. For the same reason, the European Union approved of the establishment of the Rule of Law Assistance Unit within the Executive Office of the Secretary-General. The Unit should be given the financial, technical and administrative resources it required; the absence of a budget line would hamper its ability to be fully operational. Similarly, the Rule of Law Coordination and Resource Group should be financed from the regular budget. The Group and the Unit should have a broad mandate to coordinate all the relevant rule of law activities within the United Nations as well as the content of activities to promote the rule of law.

13. **Ms. Thomas Ramírez** (Cuba), speaking on behalf of the Non-Aligned Movement, said that since the purposes and principles of the Charter of the United Nations and the principles of international law were of vital importance for preserving and promoting economic development, social progress, peace and security, human rights for all and the rule of law, Member States should renew their pledge to uphold the Charter and international law.

14. The concern felt by members of the Non-Aligned Movement about the adverse effects of unilateral measures on the rule of law at the international level and on international relations led them to urge Member States to fully respect the functions and powers of the principal organs of the United Nations, especially the General Assembly, and to maintain a balance between them. The Security Council's encroachment on the traditional areas of competence of the General Assembly and the Economic and Social Council was a cause for concern. Close cooperation and coordination among the principal organs was crucial if the

Organization were to be able to meet existing and potential dangers and challenges.

15. Respect for the rule of law was essential for the maintenance of international peace and security and the achievement of socio-economic development. The General Assembly should play a decisive role in encouraging and coordinating efforts to that end. Nevertheless the international community should not replace national authorities in their work of establishing or buttressing the rule of law, but should simply provide them with the necessary support upon request. Assistance and cooperation should be supplied at the request of the recipient Governments and strictly within the mandate of the various United Nations funds and programmes. At the same time, it was necessary to bear in mind the national customs and socio-economic and political situation of countries and not to apply pre-established models which would not solve their problems.

16. Human rights, the rule of law and democracy were interdependent and mutually reinforcing. Member States must therefore fulfil their obligations of fostering universal respect for and the protection of all human rights and fundamental freedoms in keeping with the Charter of the United Nations, the Universal Declaration of Human Rights and other human rights and international law instruments.

17. It was crucial to strike a balance when developing the national and international aspects of the rule of law. The Organization should pay closer attention to the rule of law at the international level rather than emphasizing the national plane. She therefore proposed that a sub-topic entitled "Identification of the scope of the rule of law at the national and international levels within the United Nations" should be considered during the sixty-third session of the General Assembly. In that connection, she welcomed the establishment of the Rule of Law Assistance Unit and the Rule of Law Coordination and Resource Group. Mechanisms should be set up to keep Member States abreast of the work being done by the Group and the Unit and to ensure regular interaction between them and the General Assembly. To that end the Secretary-General should present annual reports on their activities and regular briefings should be arranged. The formulation of policy on and standards for the rule of law should, however, continue to be the prerogative of the General Assembly. When performing their duties the Group and the Unit should therefore take into account the General Assembly's discussions concerning the coherence of the system.

18. **Mr. Beras Hernández** (Dominican Republic), speaking on behalf of the Rio Group, said it was clear from the interim report of the Secretary-General on the rule of law at the national and international levels (A/62/261) that there was an urgent need to coordinate and strengthen the relevant activities within the United Nations system in order to provide effective assistance to States requesting support for building capacity to promote the rule of law. The setting up of the Rule of Law Assistance Unit and the Rule of Law Coordination and Resource Group was therefore welcome, because their activities would make it possible to guarantee the general coordination, quality control and more coherent design of United Nations policies on the rule of law. The countries of the Rio Group stood ready to participate fully in the consultative process led by the Group.

19. The Committee should devote equal attention to strengthening the national and the international dimensions of the rule of law. In that context, it should define precisely the contents of the international rule of law and emphasize the fundamental principles on which it rested with a view to fostering their effective implementation. One of the sub-topics which would be in keeping with the recommendation made in paragraph 5 of General Assembly resolution 61/39 was the observance of the international rule of law. Under that heading it would be possible to tackle the implementation in good faith of the international obligations assumed by States, the peaceful solution of international disputes and the subjection of international organizations to the principle of legality.

20. At the national level, the sub-topic of the implementation of international standards in a manner which was in harmony with national laws was another area where the United Nations could provide invaluable support to States which requested it. At all events, State sovereignty and the international rule of law should not be regarded as conflicting notions. International law was the international community's best instrument for securing peace, security, development and the rule of law.

21. **Mr. Ehouzou** (Benin), speaking on behalf of the African Group, said that it was vital to strengthen the rule of law in order to establish and maintain peace and security and to ensure sociopolitical and economic

development, which was of paramount importance for African countries and other developing countries. The African Group welcomed the establishment of the Rule of Law Assistance Unit and urged that it should be adequately equipped to perform its functions.

22. The African Group endorsed the two categories of rule of law activities set out in the Secretary-General's interim report (A/62/261), namely activities relating to the promotion of the rule of law at the international level and those relating to the promotion of the rule of law at the national level, and their further division into subcategories on the basis of the needs of Member States. At the same time, the Group wished to draw attention to the report of the Secretary-General entitled "Towards achieving internationally agreed development goals, including those contained in the Millennium Declaration" (E/2005/56), in which the international community was urged to address the special needs of Africa, the least developed countries and small island developing States. Indeed, the Millennium Declaration itself had stressed that the promotion of democracy, the strengthening of the rule of law and respect for human rights and fundamental freedoms, including the right to development, were crucial in order to achieve progress. Strategies to implement the development agenda required a transparent, accountable and participatory system of governance, based on the rule of law.

23. The African Group urged action by the United Nations and the international community to provide technical assistance to African countries, strengthen their legislative and judicial capacities and assist them with electoral reform, particularly those countries emerging from conflict. In that regard, the Group expressed its support for the efforts of the Peacebuilding Commission to help Member States emerging from conflict to rebuild their systems and strengthen their capacities to enforce the law. The establishment of a rule of law regime at the international level depended on the existence of workable rule of law systems at the national level.

24. Although the Secretary-General's interim report contained a large amount of information on the United Nations entities engaged in rule of law activities, it provided little information on the activities themselves, whether carried out at the national or the international level. The African Group therefore looked forward to receiving, in the report to be submitted to the General Assembly at its sixty-third session, a more detailed description of the steps taken by the Organization to assist Member States in that regard.

25. **Mr. Barriga** (Liechtenstein) said that his country was deeply committed to the rule of law at the national and international levels. The rule of law encompassed both a procedural and a substantive aspect. The procedural aspect referred to an effective system of rules which was established in accordance with a higher set of rules and made legal decisions foreseeable to the greatest extent possible. The substantive aspect referred to the fact that the system of rules must reflect basic values of humanity, such as fundamental human rights.

26. The United Nations was in a unique position to support the rule of law globally, and it was to be hoped that Member States' commitment to an international order based on the rule of law and international law, as expressed in the 2005 World Summit Outcome and General Assembly resolution 61/39, would be translated into stronger action. Despite some setbacks, the Organization had been instrumental in bringing about progress with regard to the rule of law in recent years: for example, mechanisms of international criminal justice had been further developed, as demonstrated by the referral of the Darfur situation to the International Criminal Court; new human rights instruments had been adopted; the principle of "responsibility to protect" had received full political endorsement; and rule of law elements in peacekeeping and peacebuilding activities had been considerably strengthened. Those developments gave reason for optimism.

27. The Committee should focus on the rule of law activities of the United Nations and its agencies, funds and programmes, as described in the Secretary-General's report entitled "Uniting our strengths: Enhancing United Nations support for the rule of law" (A/61/636). Liechtenstein fully supported the establishment of the Rule of Law Coordination and Resource Group, chaired by the Deputy Secretary-General, and its mandate. Headquarters-based coordination of rule of law activities was necessary for coherence and synergy. The Group's work would also advance the Secretariat's institutional memory in that area, which was currently lacking because of the decentralized nature of many activities.

28. The Group's work would be successful only if it was backed up by a minimum number of dedicated

Secretariat staff. In that regard, his delegation supported the establishment of the Rule of Law Assistance Unit, but was concerned about the sustainability of the current arrangements. The support expressed in the World Summit Outcome for the establishment of such a unit had clearly implied a mandate for the Secretary-General to request the necessary budgetary resources, and the Secretary-General had chosen to establish the Unit immediately with staff seconded from United Nations offices for the initial phase. Yet Secretariat capacities at Headquarters were limited and by no means proportional to the task at hand, as illustrated by the fact that only 2 per cent of the proposed programme budget for 2008-2009 was devoted to international justice and law.

29. The Rule of Law Coordination and Resource Group and the Rule of Law Assistance Unit filled a significant gap in the Organization and would be crucial interlocutors for the Committee. Member States were expecting an inventory of the current activities of the United Nations system and recommendations for strengthening and coordinating them in the report to be submitted at the next session. That report would benefit greatly from the progress already made and the evolution of the new structures. His delegation agreed that it should be coordinated by the Group, with the Unit's assistance, since its content would relate to the very core of their mandate.

30. The rule of law was potentially a very broad topic. His delegation favoured an approach which focused on those areas where the United Nations could add real value. That principle was already being put into practice through the provision by various United Nations system entities of concrete assistance and capacity-building in many countries where such services were otherwise not easily available. Making capacity-building more efficient would be one of the main tasks of the Rule of Law Coordination and Resource Group. The demand for capacity-building stemmed from a variety of circumstances, such as the need to rebuild the rule of law sector after a conflict. That type of situation presented particular difficulties, but in many parts of the world simply absorbing the sheer volume of international law was a major challenge. The Group and the Unit would have an important role to play in that regard.

31. His delegation warmly welcomed the increased attention being given to rule of law activities by Member States and the leadership shown in that regard by the Secretariat. Member States should support all efforts to strengthen those activities at the operational level.

32. **Mr. Lebedinsky** (Switzerland) welcomed the international community's commitment to the defence and promotion of the rule of law at the national and international levels, in line with the provisions of the 2005 World Summit Outcome. The contributions from Member States to the report of the Secretary-General (A/62/121 and Add.1) showed that the concept of the rule of law was interpreted in many different ways. Nonetheless, a number of common denominators existed. At the national level, the principles of legality, separation of powers and equal access to the justice system were intrinsically linked to the rule of law. At the international level, the rule of law was based mainly on international law as the cornerstone of relations between States.

33. On the basis of those common principles and with a view to taking greater account of the concept of the rule of law in the actions of the international community, Switzerland supported the idea, set out in General Assembly resolution 61/39, of choosing one or two sub-topics each year in order to facilitate a focused discussion for the subsequent session, without prejudice to the consideration of the item as a whole. Many topics merited the Committee's attention, such as the peaceful settlement of disputes, international criminal justice, technical assistance aimed at ensuring greater respect for the rule of law, and transitional justice. His delegation was open to any constructive proposal and would collaborate with all interested Member States.

34. As noted by the Secretary-General in his reports (A/61/636 and A/62/261), many United Nations departments, funds and programmes were engaged in rule of law activities but there was little coordination among them, which created a lack of coherence and a risk of duplication and gaps. His delegation therefore welcomed the establishment of the Rule of Law Coordination and Resource Group and the Rule of Law Assistance Unit, which would help to strengthen the effectiveness of United Nations action in that area. The future of the Group and the Unit should be assured through the Organization's regular budget.

35. **Mr. Duan** Jielong (China) said that his delegation supported the Committee's continued consideration of the topic of the rule of law, which would facilitate

cooperation and mutual understanding on the issue. The rule of law was a universal goal for all nations and an effective instrument for establishing and maintaining social order, promoting social justice and achieving social progress. With regard to building the rule of law at the national level, every nation had the right to choose a model suited to its own situation. At the same time, countries could learn from each other's models in order to advance the rule of law together. In the past two decades, China had made great progress in developing a rule of law system that reflected its own specific characteristics.

36. The first prerequisite for the rule of law was the establishment of a basic legal system. China had established a socialist legal system with over 200 effective laws, including the Constitution and basic laws in various spheres, as well as more than 700 administrative regulations and 8,000 local regulations, all of which reflected the country's specific circumstances.

37. Compliance with the law was also fundamental to the rule of law. In China, Government, legislative bodies, courts and prosecution services performed their respective functions in compliance with the law. Moreover, Chinese citizens and legal persons carried out their activities in accordance with the law. The principle of the Government exercising its power in full compliance with the law was upheld through various administrative laws and systems concerning decision-making, review, monitoring and accountability. Thus administrative bodies were prevented from violating the law and encroaching on the rights and interests of citizens.

38. Respect for human rights was another essential element in the rule of law. Amendments to the Chinese Constitution provided that human rights were to be respected and safeguarded by the State and that citizens' legal private property was to be protected. In addition, the recently enacted Property Law contained detailed provisions designed to protect the property rights of the State and individuals.

39. The exercise of power should be regulated and monitored in accordance with the law. Pursuant to the Chinese Constitution, all State power belonged to the people, who exercised that power through the National People's Congress and local people's congresses. The local congresses elected and monitored their local administrative, judicial and prosecutorial bodies. Political parties, administrative and judicial bodies and the Chinese People's Political Consultative Conference also played a role in monitoring, with public opinion acting as an additional check.

40. Lastly, the impartial administration of justice was vital for the rule of law. Under the Constitution, the people's courts and the prosecution service at various levels exercised their functions independently and without interference from any quarter. The judicial organs acted in strict compliance with the law, attaching equal importance to the punishment of criminals and the protection of the legitimate rights and interests of citizens. China had made great efforts over the years to make its judicial system impartial, efficient and authoritative and to improve procedures for the conduct of trials and the selection of judicial personnel. The prosecution organs had enhanced their monitoring of proceedings, enforcement and investigations, and the Supreme People's Court had the exclusive right to review death penalty decisions made by lower courts. Notwithstanding the progress that had been made, the process of developing and improving the rule of law in China was an ongoing endeavour.

41. The strengthening of the international rule of law was in the interests of people of all countries because it would contribute to the maintenance of international justice, the promotion of peace and development and the consolidation of friendly relations among nations. In that regard, the authority of the Charter of the United Nations should be maintained, international law should be improved and universally applied and international relations should be democratized. An appropriate line should be drawn between matters that fell within national jurisdiction and those governed by international law. Moreover, a balance should be struck between the common interests of all humankind, national interests and the interests of individuals. Peace, security, cooperation, development, harmony and mutual benefits should prevail over selfish national interests.

42. His delegation welcomed the establishment of the Rule of Law Coordination and Resource Group and the Rule of Law Assistance Unit. It was to be hoped that they would play a central role in coordinating the activities of the entire United Nations system relating to the rule of law. With regard to the Committee's discussions on the rule of law at the next session, his delegation wished to propose two topics, the first of which was the laws and practices of Member States in

implementing international treaties. By sharing national experience in that area, Member States could enhance mutual understanding and promote compliance with international treaties. The second topic was the principles and practices followed by Member States in their interpretation of international treaties. The sharing of national experience in that regard would promote consensus on the interpretation of international treaties and strengthen the capacity to apply international law.

43. **Ms. Thandar** (Myanmar) said that the national and international levels of the rule of law were complementary and interdependent. The challenge facing the international community was to absorb international and regional treaties into the domestic law of Member States. Capacity-building, wider dissemination of international law and the provision of technical assistance on request could be useful in that respect, particularly in developing countries, with the valuable support of the United Nations system. The preliminary information contained in the Secretary-General's interim report (A/62/261) regarding the inventory of rule of law activities within the system was a good step forward in that regard, as was the establishment of the Rule of Law Assistance Unit.

44. Her delegation recognized the primacy of customary international law and the obligation of the State to ensure that its national law was consistent with its international obligations. Myanmar was currently reviewing its domestic legislation with that in mind. In State-to-State relations, it subscribed to the five principles of peaceful coexistence and respected the role of the International Court of Justice in the peaceful settlement of disputes. It shared the view that the rule of law at the international level should be based on strict observance of the United Nations Charter, which was the pinnacle of modern international law. Her delegation was accordingly willing to cooperate with other member countries to achieve the goal of universal adherence to the rule of law at the national and international levels.

45. **Mr. Goulder** (Libyan Arab Jamahiriya) said that experience had shown that the rule of law could only be implemented in conjunction with democratic procedures. That was true at the international as well as at the national level, and therefore the bases for the activities of United Nations organs should be reviewed to ensure that they were genuinely democratic. In particular, the membership of the Security Council should be balanced, so that its resolutions would be fair and take into account the areas of competence of other United Nations organs, in particular the General Assembly.

46. **Ms. Rodríguez-Pineda** (Guatemala) welcomed the inclusion in the work of the Sixth Committee of the topic of the rule of law at the national and international levels. The two levels were clearly mutually complementary and should be compatible with each other. At the national level, Guatemala had recently been making intense efforts to promote the rule of law, in particular by setting up the International Commission against Impunity in Guatemala, which was seeking, with the support of the United Nations and a group of friendly countries, to further the investigation and prosecution of criminal activities in the country. The Commission would help to address, in particular, the challenge presented to the rule of law by the illegal vigilante groups and clandestine organizations that were a legacy of the armed conflict in the country.

47. At the international level, Guatemala contributed to United Nations peacekeeping operations and was a party to the most important international instruments aimed at combating corruption, drugs and crime and to promoting human rights and humanitarian law. It thereby showed its commitment to an international legal order based on the rule of law. As a multicultural, multi-ethnic and multilingual country, it had been particularly gratified by the recent adoption of the Declaration of the Rights of Indigenous Peoples, which was a major advance in strengthening the international rule of law and would help to improve the lives of more than 370 million indigenous people around the world.

48. The establishment of the Rule of Law Coordination and Resource Group, which would coordinate rule of law activities throughout the United Nations system was welcome and would make it possible to respond more effectively to the requests made by Member States, taking into account the specific characteristics and customs of each State. While the various rule of law categories identified by the Secretary-General were useful, not all situations lent themselves to categorization. She requested additional information regarding the composition and functions of the secretariat of the Rule of Law Coordination and Resource Group and the recommended establishment of a trust fund to promote

the rule of law. Lastly, it would indeed be useful to select one or more sub-topics for the Committee's discussions in that area, which should be marked by a pragmatic and concrete approach.

49. **Mr. Wai** (Sudan) said that his country had incorporated the principles of democracy, decentralization and accountability into its interim Constitution and respected international law and international agreements. The principal threat to universal adherence to the rule of law was the unilateral use of force. The principle of the rule of law should not be used as a tool for applying political pressure, and developing States should be allowed to pursue their aspirations for development without interference in their internal affairs.

50. The United Nations should integrate the concept of rule of law into all its institutions, starting at the top with reform of the Security Council to make it more democratic. The views of Member States should be taken into account in determining the mandate of the Rule of Law Coordination and Resource Group. While Member States might agree on some of the conceptual outlines of the rule of law principle, what was needed was an action plan with an implementation mechanism. The problems that might arise in the course of devising such mechanisms were less dangerous than the problems that would be created by moving forward without issues being clarified. A common understanding was within reach through consultations among Member States within the framework of a working group established by the Committee.

51. **Mr. Alday González** (Mexico) welcomed the positive response to the inclusion of the topic of the rule of law in the Committee's work. While, at the national level, the concept was quite well defined, at the international level, it was necessary to identify its components more clearly in order to promote measures that would contribute effectively to enhancing the place of law in the international order and thereby help to maintain world peace. The international community could only agree on the concept by identifying common elements so as to formulate the necessary functional definition, while avoiding endless discussions. Delegations should not lose sight of the fact that the Committee offered an ideal forum for expressing the different conceptions of the rule of law in the various legal systems and traditions. The report of the Secretary-General (A/62/121) was an important step in that direction, since it invited States that had not yet done so to contribute their own perspectives to the existing conspectus. The international order must be based on the laws laid down for itself by the international community and must conform with the principles imparting general effectiveness to international law as a whole, as embodied in the norms of *pacta sunt servanda, jus cogens* and Article 103 of the United Nation Charter.

52. In response to the recommendation of the General Assembly in paragraph 5 of its resolution 61/39, his delegation proposed two sub-topics for the discussion on the rule of law. The first sub-topic, implementation of international norms through their incorporation into the domestic legal order, reflected an awareness that domestic legislative and administrative measures did not always give adequate or effective expression to international commitments, thus affecting the *pacta sunt servanda* norm. The General Assembly could request Member States to provide information about the measures taken within their respective jurisdictions to implement the norms of international law contained in the treaties to which they were parties.

53. The second sub-topic proposed, namely, the role of international courts in strengthening the rule of law, reflected his delegation's conviction that there could be no rule of law without effective judicial mechanisms for the peaceful settlement of disputes concerning the implementation or interpretation of international law by States. It was therefore important to strengthen the role of international judicial organs, including the International Tribunal for the Law of the Sea, and to promote acceptance of the compulsory jurisdiction of the International Court of Justice. A study might accordingly be undertaken on treaties providing for the submission of issues of implementation or interpretation to international courts, the number of States parties thereto, reservations entered thereon, the number of cases submitted and the effectiveness of the relevant provisions. The General Assembly might call on the Secretary-General to request such information from international courts. That would also serve to identify the most suitable wording to be used in international provisions for the peaceful settlement of disputes.

54. His delegation supported the establishment of the Rule of Law Assistance Unit and reiterated its commitment to continue working with other delegations in pursuit of concrete means of strengthening the rule of law.

55. **Mr. Maharia** (India) said that promotion of the rule of law was an essential tool for ensuring sustainable development and peaceful coexistence and cooperation among States. India welcomed the establishment of the Rule of Law Coordination and Resource Group, and the Rule of Law Assistance Unit, but wished to point out that policy issues being debated elsewhere in the United Nations in the context of efforts to improve system-wide coherence should not be linked to the coordination functions of the Group or the Unit. It was to be hoped that the two new entities would help in coordinating the activities of all United Nations specialized agencies and organizations and ensure that there was no duplication in their work on promoting the rule of law or assisting developing countries in drafting national legislation to implement specific conventions and organizing training activities to facilitate the implementation and interpretation of such legislation.

56. It was evident that the United Nations needed to rationalize and harmonize its rule of law work, and to coordinate more effectively, both internally and with outside actors. To that end, the Secretary-General had proposed a division of labour among the key United Nations actors, with designated lead entities assuming clearly defined responsibilities for specific areas of rule of law activities. For such an integrated approach to succeed, detailed identification of the nature and scope of technical assistance being provided by each entity would be crucial. The comprehensive inventory to be submitted by the Secretary-General to the sixty-third session of the General Assembly should include that information.

57. With regard to the Sixth Committee's consideration of the rule of law, the challenge was how to have a structured discussion, given the enormous scope of the topic. The Committee should choose only one or two sub-topics each year, and cover them in detail. Equal emphasis should be given to both the national and the international aspects of the rule of law. However, as many delegations still had doubts about the topic's exact nature and scope, it would be useful to have an exchange of views on the scope of the rule of law at each of the two levels in order to arrive at a common understanding. That was the aim of the proposal put forward by Cuba on behalf of the Non-Aligned Movement.

58. **Mr. Nguyen Ba Son** (Viet Nam) said that the rule of law was currently recognized and practised in most parts of the globe, which was a significant achievement of human civilization. In the 2005 World Summit Outcome, Heads of State and Government had reaffirmed their commitment to an international order based on the rule of law and international law. To fulfil that high-level commitment, further guidance for the resolution of specific problems, at both the international and the national level, was needed. Strengthening the rule of law at the international level required, first and foremost, the progressive development and scrupulous implementation of international law. The international community had made treaties and rules and established mechanisms in almost every area of international life, but much remained to be improved in the enforcement of international law. Selectiveness and double standards were often evident in its application, something that ran counter to the very notion of the rule of law. Moreover, many developing and least developed countries found their efforts to take part in the codification and progressive development of international law, or to undertake legal reforms and strengthen the national rule of law, challenged by capacity and resource constraints.

59. The Committee should identify specific measures to be taken in order to strengthen the rule of law, focusing its discussions on measures aimed at improving the codification and progressive development of international law; increasing the number of States parties to international treaties and improving the implementation of international law; establishing and/or consolidating appropriate organs and procedures that could help to enforce international law; and promoting general awareness and better understanding of international law.

60. The rule of law was embodied in the Vietnamese Constitution and his Government attached great importance to upholding it in pursuing the country's socio-economic development. Key elements in its efforts to promote the rule of law were two strategies aimed at establishing a uniform, transparent and viable legal system: the National Strategy for the Development and Improvement of the Legal System and the Strategy on Judicial Reform. The first strategy covered every aspect of social life, from economic development and political stability to protection and promotion of human rights. The second focused on developing an effective and fair judicial system. In order to implement them, Viet Nam would continue to

cooperate with United Nations entities and potential donors. On the basis of its experience, Viet Nam suggested that the coordinating role of the United Nations in providing assistance to developing countries for rule of law activities should be strengthened, possibly through the Rule of Law Coordination and Resource Group.

61. **Mr. Pratomo** (Indonesia) said that that the rule of law was the very foundation of the United Nations. It served as a compass for the interaction of nations on an equal basis and in accordance with legally established standards, ensuring peace, order and predictability in inter-State relations. As a firm believer in the rule of law in all fields of human endeavour, Indonesia applauded the Secretary-General's decision to make strengthening it a top priority and was pleased to have been part of the constant efforts of the United Nations to promote the rule of law at the national and international levels. His delegation welcomed the establishment of the Rule of Law Assistance Unit, which would doubtless facilitate the process of incorporating international law into domestic legislation. However, Indonesia wished to emphasize that any assistance provided by the Unit should supplement the efforts of national authorities and should be in line with the priorities envisaged by the requesting government.

62. There were still divergent views among Member States about where the focus should be placed in the work to be undertaken on the rule of law. While some States emphasized the international dimension of the rule of law, others stressed strengthening judicial mechanisms at the national level. He believed that the two perspectives were merely the different sides of the same coin and that there was no conflict between them. The Committee should identify issues of shared concern with regard to both international and national aspects of the rule of law, which would enable it to sharpen the focus of its discussions. Admittedly, that would not be easy, given the wide scope of the subject. However, the Committee could draw on the lessons learned from its consideration of other matters, such as the law of the sea. It might begin by discussing issues relating to the rule of law in the international sphere at the next session and then move on to consider the national aspects of the rule of law at a subsequent session. In that connection, the proposal put forward by the representative of China concerning the focus of the Committee's deliberations was worth considering, as it would help to elucidate the link between the rule of law at the national and the international levels.

63. Because there was no supranational mechanism that could enforce States' obligation to obey international law, it was important to find ways to enhance their compliance, since universal adherence to a rule-based international system would ensure the stability essential for cooperation among Member States. It would also strengthen the notion of justice and fairness in inter-State relations, which in turn would promote a better public perception of international law, expediting the acceptance and harmonization process at the national level.

The meeting was suspended at 12.05 p.m. and resumed at 12.35 p.m.

64. **Mr. Dos Santos** (Mozambique) said that the Committee's current discussion represented a commendable step towards materializing the commitment made during 2005 World Summit to an international order based on the rule of law and international law. Mozambique welcomed the Secretary-General's decision to establish the Rule of Law Coordination and Resource Group to act as the focal point for coordinating the rule of law activities of the United Nations system. It was also pleased to note that activities for the reinforcement of the rule of law were gaining a central role in the mandates of peacekeeping missions, as it was now widely recognized that establishing the rule of law was an important element in the achievement of sustainable peace and security in post-conflict situations.

65. United Nations rule of law activities were not limited to conflict and post-conflict contexts, however. They also included activities in the context of long-term development. His delegation considered that approach highly appropriate, as many countries were now striving to consolidate democracy and build the rule of law outside of post-conflict contexts.

66. Mozambique was committed to strengthening the rule of law at the national and international levels. Its previous Constitution, adopted in 1990, had introduced the democratic rule of law, founded on the separation of powers and on political pluralism. The country's current Constitution, adopted in 2004, reaffirmed and deepened the commitment to those fundamental principles and to the rule of law. Legal and judicial reforms currently under way aimed to enhance coordination among the various institutions involved in

the administration of justice in order to establish a judicial system that would enable the rule of law to become firmly rooted and uphold the aforementioned constitutional principles. Those reforms would be of paramount importance for the consolidation of peace, democracy and respect for the fundamental rights and freedoms of individuals.

67. His Government believed that democracy and the rule of law were a prerequisite for the full participation of Mozambicans in the country's life, particularly the process of nation-building and development. Accordingly, the recent constitutional and judicial reforms had been preceded by public hearings which had afforded an opportunity for citizens, politicians, non-governmental organizations and other civil society stakeholders to participate in the search for ways to ensure better coordination among the institutions of government.

68. The rule of law activities of the United Nations system should encourage greater promotion, dissemination and teaching of international law; wider participation of all States in the codification and progressive development of international law; and building of national capacity for the implementation of international legal instruments. Coordination and cooperation with regional bodies was of great importance in order to tailor United Nations activities to their specific needs and priorities. His delegation welcomed the 2006 declaration on enhancing United Nations African Union cooperation. Enhanced cooperation should be promoted in the context of initiatives such as the New Partnership for Africa's Development, particularly in the areas of accountability and good governance. African leaders had adopted the African Peer Review Mechanism, a voluntary scheme aimed at strengthening democratic rule and governance structures in African countries through constructive peer scrutiny and sharing of best practices with regard to good governance, transparency and accountability. As of June 2007, 26 countries, including Mozambique, were participating in the mechanism.

69. **Ms. Negm** (Egypt) said that the rule of law at the national and international levels should be in accordance with the general principles of international law and with the purposes and principles of the United Nations as stipulated in the Charter. Given the divergence of views among Member States in their understanding of the issues to be addressed under the rubric of "the rule of law", it would be important to establish a definition of the term that all Member States could agree upon and to identify clear standards for the implementation of the rule of law.

70. While endeavouring to avoid duplicating the discussions taking place in other forums within the United Nations, the Sixth Committee should examine several topics relating to the rule of law at the national and international levels. With regard to the national level, Egypt considered the following topics particularly important: the principle of territoriality of national laws and the effects of one State's imposing its jurisdiction on citizens of another State for crimes committed beyond its territory without such action being supported by international conventions or the principles of international law; respect for the sovereignty of States over their territories and their right to choose the optimal legal regime, based on the general principles of international law; and the best means of providing States, at their request, with assistance to build their capacity for the establishment of a just legal system.

71. Concerning the rule of law at the international level, Egypt suggested the following topics: methods of work and adoption of resolutions by international organizations, especially the United Nations, to ensure the application of the principles of international law and the provisions of the Charter; the means of achieving democracy at the international level, especially with respect to the adoption and implementation of United Nations resolutions; the impact of failure to implement the principle of equality of all before the law on compliance with resolutions of international organizations; and the impact of failure to implement resolutions of international organizations and judgments of the International Court of Justice on the stability of international relations.

72. Her delegation also attached importance to studying the relationship between extending the rule of law at the international level and its impact on the rule of law at the national level, especially in cases of aggression, armed struggle, occupation and illegal use of force.

73. Egypt welcomed the establishment of the Rule of Law Assistance Unit but reaffirmed the need for Member States to determine its mandate, in keeping with the general guidelines for the provision of technical and capacity-building assistance set forth in

General Assembly resolution 59/250. The Unit should also ensure that its activities did not overlap with the efforts under way to improve system-wide coherence and that it did not become involved in policymaking, which was the province of the General Assembly.

74. Her delegation looked forward to continuing discussion within the Sixth Committee aimed at arriving at a common understanding among Member States of the concept of the rule of law.

75. **Mr. Shatil** (Bangladesh) said that the adoption of General Assembly resolution 61/39 had been an important step forward in defining and determining the scope of the concept of the rule of law. In order to ensure a world order based on international law, measures must be taken to ensure better implementation of international law, notably through technical assistance and national capacity-building. The United Nations should increase the efficiency of such assistance, expand it to broader areas of international law and focus on the specific needs of Member States. Measures should be taken to support institutional development for the promotion of international law and encourage more States to become parties to international instruments. There should also be a call for increased contributions to the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice.

76. His delegation believed that the Committee should further intensify its interaction with the International Law Commission, whose role was crucial in several areas, particularly with regard to the relationship between human rights and international humanitarian law. It also considered that the Secretary-General should be authorized to make extensive use of the power to request advisory opinions from the International Court of Justice. It welcomed the establishment of the Rule of Law Assistance Unit, while stressing that it should take into account the central role of the Office of Legal Affairs and not duplicate work done elsewhere. The proposed inventory of rule of law activities in the United Nations system would be valuable in that regard.

77. At the national level, Bangladesh had been actively promoting the rule of law and justice in all spheres of life, in particular through administrative, judicial and electoral reforms. It had recently taken steps to separate the judiciary from the executive branch of government and had strengthened the Anti-Corruption Commission, which functioned as an independent watchdog. In addition, the Government would soon be establishing a Human Rights Commission, thereby ensuring that international standards of human rights and personal freedom were maintained in the country. Bangladesh was mindful of the importance of developing accountable and coherent law-enforcement institutions operating within the framework of international legal norms. He welcomed the current discussion on the rule of law and hoped that it would lead, through an inclusive process, to the establishment of a global law-based regime in international relations.

The meeting rose at 1 p.m.